

**BEFORE THE  
STATE CORPORATION COMMISSION  
OF VIRGINIA**

<b>Application of</b>	)	
	)	
<b>Verizon Virginia Inc.</b>	)	<b>Case No. PUC-2007-_____</b>
<b>and</b>	)	
<b>Verizon South Inc.</b>	)	
	)	
<b>For a Determination that Retail Services Are</b>	)	
<b>Competitive and Deregulating and Detariffing</b>	)	
<b>of the Same</b>	)	

**DIRECT TESTIMONY  
OF  
ROBERT W. WOLTZ, JR.**

**On Behalf of  
Verizon Virginia Inc.  
and  
Verizon South Inc.**

**January 17, 2007**

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<b>VERIZON VIRGINIA INC. and</b>	)	<b>Case No. PUC-2007-_____</b>
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<b>VERIZON SOUTH INC.</b>	)	
	)	
<b>For A Determination that Retail</b>	)	
<b>Services are Competitive and</b>	)	
<b>Deregulation of the Same</b>	)	

**TESTIMONY OF ROBERT W. WOLTZ, JR.  
IN SUPPORT OF VERIZON'S APPLICATION FOR  
A DETERMINATION THAT RETAIL SERVICES  
ARE COMPETITIVE AND DEREGULATING AND DETARIFFING THE SAME**

**I. INTRODUCTION, PURPOSE AND SUMMARY OF TESTIMONY**

**Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

A. My name is Robert W. Woltz, Jr. and I am President of Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"). My business address is 600 E. Main St., 11<sup>th</sup> floor, Richmond, Virginia, 23219.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.**

A. I received a Bachelor of Science in mathematics from Hampden-Sydney College in 1971.  
I began my career with a Verizon predecessor company, the C&P Telephone Company of

Virginia, in June of that year in the Traffic Department, and had a number of assignments with increasing responsibility in Network Services, Human Resources, Public Communications and Marketing Operations. My assignments have also included responsibility for operations in Virginia, West Virginia, Maryland and Washington, D.C. With the formation of Bell Atlantic in 1984, my regional responsibilities expanded to include Pennsylvania, New Jersey and Delaware. After spending a year with Bell Atlantic International in Oslo, Norway, I returned to Virginia in January 1992. I was named Vice President – External Affairs for Bell Atlantic - Virginia in 1993, and assumed my current position in January 2000.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. My testimony supports Verizon's Application for a determination that its retail services are competitive and should be deregulated and detariffed. My testimony explains why this determination is necessary given today's telecommunications market, and outlines the Commission's authority to make such a determination. I also outline Verizon's specific deregulation proposal, including safeguards sufficient to protect consumers and competitive markets in the transition to a deregulated environment.

**Q. HOW IS YOUR TESTIMONY ORGANIZED?**

A. The first part of my testimony discusses why, given the continuing growth of competition, the Commission should deregulate Verizon's retail services. Part II of my testimony explains Verizon's deregulation proposal. Specifically, I discuss why Verizon's Alternative Regulation Plan would no longer apply to deregulated telephone services. Part III of my testimony proposes certain safeguards the Commission could

adopt to protect consumers and competitive markets as Verizon transitions to a deregulated environment.

**Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

A. The local telephone industry in Virginia is intensely competitive, with newer technologies daily taking an increasing share of connections to the customer. With this filing, Verizon presents substantial evidence that its basic local exchange services (“BLETS”), other local exchange services (“OLETS”), and Bundled Services are competitive under the criteria outlined in Va. Code § 56-235.5(F). The Commission therefore should declare these retail services competitive.

The Commission, however, should not stop there. In this competitive environment, the Commission can—and should—let market forces ensure that Verizon meets its obligations as a Virginia public utility to provide adequate service at just and reasonable rates under Va. Code § 56-234. The Virginia General Assembly and this Commission have long been at the forefront of encouraging competition, while at the same time managing the transition from a monopoly to a competitive environment. Now is the time in this evolution for deregulation.

The Commission developed its existing rules and regulations, including Verizon’s Alternative Regulatory Plan, to imitate competitive market forces. In the current environment, however, these regulations are no longer necessary because the competitive market is in full operation. Nor are they necessary to ensure Verizon meets its basic statutory obligation to provide adequate service at just and reasonable rates. In

particular, there is no longer any need for Verizon's Alternative Regulatory Plan to govern Verizon's competitive services, nor is mandatory tariffing appropriate.

In the absence of the Plan governing Verizon's competitive services, the Commission would still retain its authority under Va. Code §§ 56-234 and 56-235 to enforce Verizon's basic statutory duties by correcting market forces in the unlikely event that they fail. Nonetheless, to ensure a smooth transition to deregulation of Verizon's competitive retail services, Verizon is proposing certain safeguards, such as continuing a tariffed, price-capped Lifeline offering, as well as guaranteeing that residential dialtone with unlimited usage would also be price capped for three years. These safeguards, as well as the others I describe, ensure that customers and competitive markets will be protected, as required by Va. Code § 56-235.5(H).

**II. THE COMMISSION HAS THE AUTHORITY TO DEREGULATE VERIZON'S COMPETITIVE SERVICES, AND THE EVIDENCE SUPPORTS THIS DECISION BY THE COMMISSION.**

**Q. WHY SHOULD THE COMMISSION GO BEYOND DECLARING VERIZON'S RETAIL SERVICES COMPETITIVE?**

- A. The collective weight of the evidence provided by Verizon's witnesses and exhibits leads to the conclusion that Verizon's retail services are subject to intense and daily increasing competition. Verizon's evidence amply demonstrates that the local telephone industry in Virginia has changed fundamentally – and rapidly. In one decade, it has gone from a single provider under heavy regulation to ensure the provision of adequate service at just and reasonable rates to multiple wireline, wireless, cable, VoIP, e-mail, and instant messaging providers all competing to meet Virginia consumers' communications needs.

Verizon's comprehensive data demonstrates that Verizon faces a competition from not only traditional wireline competitors, but also intermodal competitors, such as cable, wireless, and VoIP providers. It also shows that the trends towards further growth in intermodal competition and wireline displacement are accelerating. As a result, Verizon has lost to competition a substantial number of its traditional switched access lines and usage, and those losses are only expected to continue.

The statutory framework setting telephone regulatory policy also has evolved dramatically. Congress adopted a policy to rely on competition whenever possible. The Virginia General Assembly likewise adopted policies to facilitate the transition to competitive markets beginning in 1995, and more recently implemented the policy in Va. Code § 56-235.5:1 to "promote competitive product offerings, investments, and innovations from all providers of local exchange telephone services in all areas of the Commonwealth," and to treat all local telephone service providers "in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services."

The General Assembly has continued to give policy guidance regarding competition and convergence. In 2006 it passed two policy bills designed to promote competition and ensure equitable terms in the communications market. The first dealt with video franchises, allowing expedited entry by new entrants while ensuring that incumbents quickly can opt into the same terms (i.e., same regulation) a new entrant receives if the incumbent finds them more favorable, and can do so immediately without regard to

market share.<sup>1</sup> This was the first bill in the nation to guarantee incumbents such equality of treatment, without regard for differences in technology or competitive penetration. The second bill implemented a standard 5% tax rate on all communications services, removing inequitable tax treatment among competitors based on technology (e.g., cellular versus wireline, satellite versus cable) and taxing all services (e.g., long distance, local, video, cellular, VoIP) on a comparable basis without regard to the provider.<sup>2</sup> In these bills the General Assembly made clear its view that competitors should be treated equitably in this convergent marketplace.

Given the competitive trends, the Commission should take the next step in implementing the General Assembly's goals that all competitors be treated the same to the greatest extent possible.

**Q. WHAT ACTION DO YOU RECOMMEND THIS COMMISSION TAKE BEYOND DECLARING VERIZON'S RETAIL SERVICES COMPETITIVE?**

- A. The time has come to let market forces, rather than regulation, ensure that all competitors, including Verizon, provide adequate service at just and reasonable rates. Va. Code § 56-235.5(E) provides the tool by which the Commission can achieve these ends, by permitting the Commission to provide, on a "case-by-case determination, for deregulation, detariffing, or modified regulation determined by the Commission to be in the public interest" for competitive services. The Commission should deregulate Verizon's competitive retail services so as to maximize consumer benefits and avoid the

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<sup>1</sup> 2006 Acts of Assembly, cc. 73 and 76. See Va. Code § 15.2-2108.26.

<sup>2</sup> 2006 Acts of Assembly, c. 780.



harmful market distortions that result from overlaying asymmetric regulation on a competitive market.

The Commission's current regulations were designed to manage the transition away from a monopoly in the wireline only world. The Commission cannot regulate many of the intermodal competitors who now and will increasingly in the future take wireline customers from those it can regulate. In today's dynamic, robustly competitive communications market, continuing to impose complex economic regulations on wireline incumbents but not their intermodal competitors depresses the full potential of the market and harms consumers. As long as Verizon is constrained by regulatory oversight in its ability to respond quickly to consumer demand, offer new services and new bundles, innovate, provide leading-edge technologies, respond to other competitor's moves, and realize the full risks and rewards of its actions, competition and consumers suffer.

**Q. DOES THE COMMISSION HAVE THE AUTHORITY TO DEREGULATE VERIZON'S COMPETITIVE SERVICES?**

A. Yes. Va. Code § 56-235.5 (E) authorizes the Commission to detariff, deregulate, or modify regulation of competitive services. Once the Commission determines services are competitive under § 56-235.5(F) (i.e., "when it finds competition or the potential for competition in the market place is or can be an effective regulator of the price of those services"), it has the option to decide that proactive plans and rules to approximate market forces are no longer required. The Commission has had this authority for ten years and has managed the transition by monitoring competitive developments and gradually loosening regulation. Now is the time to implement the deregulation option

and let market forces determine “reasonably adequate service” and “reasonable and just rates.” (Va. Code § 56-234.)

### **III. THE MEANING OF DEREGULATION**

#### **Q. HOW ARE VERIZON’S COMPETITIVE SERVICES CURRENTLY REGULATED?**

- A. Verizon’s retail services are regulated today under its Alternative Regulation Plan. The Plan divides Verizon’s services into four categories: Basic Local Exchange Services, Other Local Exchange Services, Competitive Services, and Bundled Services. The Plan defines Competitive Services to be those determined to be competitive under Va. Code § 56-235.5(F). Competitive Services are subject to price floors, a cross subsidy test, and a tariffing requirement.

Any services the Commission declares to meet the criteria for competitive services under the Code will, by definition, be classified as Competitive under Verizon’s Alternative Regulation Plan. Should the Commission decline to deregulate, detariff, or adopt modified regulation for competitive services under Va. Code § 56-235(E), the services will be governed by the requirements in the Plan applicable to Competitive services. Thus, the Plan’s regulations governing competitive services are the maximum level of regulation that could apply to the services the Commission determines to be competitive in this case. However this would be an inadequate result as even this level of regulation (e.g., price floors, cross subsidy tests and tariffing) is no longer appropriate.

**Q. WHAT DOES VERIZON MEAN BY DEREGULATION?**

- A. While the Code does not define deregulation, it does outline Verizon's general duty as a public utility to provide reasonably adequate service at just and reasonable rates. The Commission, in turn, has an obligation to enforce this duty, and to step in to correct market forces should they fail to ensure that Verizon meets this duty. In the transition from a monopoly environment, the Commission proactively imposed regulations on telephone services to replicate market forces until sufficient competition emerged. However, in the current convergent competitive environment, the Commission should take a more reactive role, and step in only if market forces fail to ensure Verizon meets its statutory duties. Such a market failure would be evident if customer complaints rise to a level that demonstrates that market forces are not ensuring "reasonably adequate service" or "reasonable and just rates."

**Q. WHAT COMMISSION RULES AND REQUIREMENTS SHOULD NO LONGER APPLY TO VERIZON'S DEREGULATED COMPETITIVE SERVICES?**

- A. In a competitive environment, the Commission should eliminate those rules and requirements that were necessary to replicate market forces. In particular, Verizon's deregulated competitive services should no longer be governed by its Alternative Regulation Plan. As explained by Dr. Taylor, the price floor and cross subsidy requirements of the Plan are inappropriate regulations in such a robustly competitive environment as Virginia faces today.

**IV. THE COMMISSION SHOULD PERMIT VERIZON TO DETARIFF ITS COMPETITIVE SERVICES.**

**Q. VA. CODE § 235.5(E) PERMITS THE COMMISSION TO DETARIFF COMPETITIVE SERVICES. SHOULD THE COMMISSION EXERCISE THIS AUTHORITY FOR VERIZON'S COMPETITIVE RETAIL SERVICES?**

**A.** Yes. It is inconsistent with a finding that a service is subject to competition sufficient to control the price of that service not to find that competition will also control the other non-price terms and conditions under which that service is offered. Therefore, the Commission should allow Verizon to replace the tariffs that govern the terms and conditions under which it offers competitive services with contracts or other market mechanisms to set terms and conditions. The Commission should allow this change to take effect immediately for any services sold to enterprise customers.

The Commission should permit more time for an orderly transition for the mass markets, to ensure adequate time for process and system changes, the development of explanatory materials for both existing and new customers, and preparations for handling increased call volumes to answer customer questions. Prior to detariffing any services, Verizon would provide Staff an explanation of what process and procedures will replace the tariffs. The process would include, for example, customer notification, public disclosure of generally available terms and conditions, and flexible customer contracting arrangements as appropriate and consistent with applicable law. While tariffs remain on file at the SCC, Verizon would have the ability to file changes to their terms and conditions, and the Commission would continue to have the authority to enforce them in the mass markets.

**Q. IS DETARIFFING VERIZON’S COMPETITIVE SERVICES IN THE PUBLIC INTEREST?**

A. Yes. As explained by Dr. Taylor, detariffing will eliminate the costs and delay associated with tariff filings and reviews by the companies and regulators, and enhances competitors’ flexibility to convey information about new offers using the most efficient means possible – including means, such as e-mail and website postings, that customers are much more likely to read than a tariff. Improved, user-friendly communications will further intensify price, feature and service quality competition.

**V. SAFEGUARDS**

**Q. HOW DOES VA. CODE § 56-235.5 ENSURE CONSUMERS AND COMPETITORS REMAIN PROTECTED IN A DEREGULATED ENVIRONMENT?**

A. Whenever the Commission finds that a service is competitive and deregulated under Va. Code § 235.5 (E) and (F) respectively, Va. Code § 235.5 (H) requires the Commission to adopt safeguards to protect consumers and competitive markets.

**Q. WHAT SAFEGUARDS ARE NECESSARY TO PROTECT CONSUMERS AND COMPETITIVE MARKETS?**

A. In this robust competitive market, few safeguards are required to protect consumers. As the New York Commission recently observed, “[a]ll aspects of the companies’ provision of telephone service—not just price—are affected by the competitive environment in

which they now operate.” *NY Competition III Order* at 97.<sup>3</sup> For example, the New York Commission found that with respect to service quality:

Customers not satisfied with how quickly their calls are answered or how long it may take to get service installed may choose another provider. In an environment with such choices, service quality becomes more sensitive to competitive pressures in meeting consumer service needs, and related regulatory mandates must be more carefully tailored.

In this new and evolving competitive environment, companies should compete on the basis of satisfying customer needs and expectations. In such circumstances, we expect local exchange companies to work aggressively to respond to customer expectations. Their incentive to maintain appropriate levels of service quality no longer need to be primarily driven by fear of regulatory action because the market penalty for failure to retain and improve their business – the loss of their customers – is much more severe. (P. 89)

The Commission will retain its authority to review the market and any complaints over Verizon’s rates or services, and take corrective action should the market fail to protect either consumers or competitors.<sup>4</sup> Moreover, competitors that rely on Verizon’s

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<sup>3</sup> *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services*, Case 05-C-0616, “Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings” (NY PSC April 11, 2006) (“*NY Competition III Order*”).

<sup>4</sup> See e.g. Va. Code §§ 56-235.5(G) and 56-247. Section 56-235.5(G) provides:

The Commission shall monitor the competitiveness of any telephone service previously found by it to be competitive under any provision of subsection F above and may change that conclusion, if, after notice and an opportunity for hearing, it finds that competition no longer effectively regulates the price of that service.

Section 56-247 provides:

If upon investigation it shall be found that any regulation, measurement, practice, act or service of any public utility complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of law or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the Commission may substitute therefore such other regulations, measurements, practices, service or acts and make such order respecting, and such changes in, such regulations, measurements, practices, service or acts as shall be just and reasonable.

wholesale offerings will remain protected by state and federal rules governing the wholesale market.

**Q. PLEASE EXPLAIN HOW THE COMMISSION'S COMPLAINT PROCESS PROTECTS CONSUMERS.**

A. Section 56-247 of the Va. Code grants the Commission the authority to investigate Verizon's services and practices, and to correct any found to be "unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of law . . . inadequate or that any reasonable service cannot be obtained." The Commission has established informal and formal complaint procedures to conduct such an investigation. Deregulating Verizon's competitive services will not change the Commission's authority to investigate such complaints and take corrective action should market forces fail.

**Q. PLEASE EXPLAIN HOW COMPETITIVE MARKETS REMAIN PROTECTED THROUGH NUMEROUS RULES AND REGULATIONS.**

A. Currently, Verizon is subject to several regulations that foster and protect competitive markets. These include federal interconnection rules, interconnection agreements, the Commission's Alternative Dispute Resolution Process rules, Verizon's Carrier to Carrier Guidelines, and Performance Assurance Plan. Deregulation of Verizon's retail services will not affect these wholesale obligations, which the Commission will continue to enforce through its complaint procedures.

**Q. DESPITE THESE PROTECTIONS, DOES VERIZON PROPOSE ANY ADDITIONAL SAFEGUARDS?**

A. Yes. While the Commission's complaint process and the rules and regulations described above are sufficient to protect consumers and competitive markets, Verizon recognizes that some additional safeguards may be appropriate to ensure a smooth transition to a deregulated environment.

**Q. WHAT ADDITIONAL SAFEGUARDS DOES VERIZON PROPOSE?**

A. Verizon proposes that the Commission adopt the following safeguards:

- **Lifeline (Virginia Universal Service Plan)**

Verizon will continue to offer Lifeline services at current rates and will file tariffs to categorize Lifeline as a BLETTS service under its Alternative Regulation Plan. As BLETTS, Lifeline services will be subject to the limitation on price increases not to exceed the GDPPI inflator as required by Sections F (2) and (3) of the Plan.

- **Transition Plan for Residential Dialtone**

Competition or the potential for competition will regulate the price of competitive services, including residential dialtone service. While this "belt" of competition will be a sufficient regulator of price, an additional "suspenders" of protection would be to limit increases in the monthly rate for residential, unlimited local usage dialtone service to no more than \$1 per year for a three year period from the effective date of the deregulation of this service. This would create a transition period to market pricing for residential subscribers in any areas where the Commission is concerned about how quickly additional competition could develop in response to price



increases. Staff could monitor price changes for this service through a requirement for Verizon to file with Staff a notice of all price increases to this service during the three year transition period.

- **E-911**

Verizon's E-911 services are tariffed, BLETs services, and they will remain so. Any significant changes to the manner in which this essential, public safety service is offered should be handled in a separate proceeding.

- **Service Quality Rules**

The Commission's Service Quality Rules apply to the Company generally, rather than to individual services. The Rules, therefore, will continue to apply. The Service Quality Rules, as reactive rules rather than proactive prescriptions of sameness, are less antithetical to competitive markets so long as the Commission sticks to the principle that it need only take corrective action where the volume of customer complaints warrants. However, as recognized by the New York Commission, service quality is one of the essential elements over which competitors should be permitted to compete and differentiate themselves in the marketplace. Therefore, Verizon recommends that the Commission open a proceeding to examine whether the service quality rules should be modified for all carriers in today's competitive marketplace.

- **Cross-Subsidy Protection**

While § 56-235.5 requires the Commission to adopt, at a minimum, a cross subsidy test, it does not provide how such a test should be enforced. Verizon's Plan (Section K. 3) requires the Company to annually file data demonstrating that revenues from

Competitive Services in the aggregate cover their direct incremental costs. This safeguard was adopted to facilitate the Commission's monitoring of the statutory requirement "that there is no cross subsidization of competitive services by monopoly services."<sup>5</sup> While such a test was appropriate during the transition period while the majority of services were still considered monopoly, this requirement is clearly no longer appropriate.

First, Verizon's evidence shows that all of its retail services are subject to intense competition, and therefore, by definition, are not monopoly services. Consequently, there are no monopoly services left to cross subsidize Verizon's competitive services. Second, even if monopoly services remained, the Commission would retain its authority to address any perceived cross subsidization of competitive services by monopoly services through the complaint or show-cause process, at which point Verizon could provide an analysis to verify that no such cross subsidization exists. An annual filing is not necessary to achieve this result. Finally, CLECs have the same statutory duty not to cross subsidize competitive services through monopoly services.<sup>6</sup> However, the Commission does not automatically require CLECs to make an annual cross subsidy filing, but instead maintains the discretion to require such a filing should it find that the CLEC has monopoly services.<sup>7</sup> As required by Va. Code § 56-235.5:1, the Commission should treat Verizon the same.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.

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<sup>5</sup> Va. Code § 56-235.5 (H) (*emphasis added*).

<sup>6</sup> See Va. Code § 56-265.4:4(B)(3).

<sup>7</sup> See 20 VAC 5-417-60 (E) ("Should the commission determine that a new entrant has a monopoly over any of its services, whether or not those services are telephone services, it *may* order the new entrant to file annually with the Division of Communications data to demonstrate that its revenues from local exchange telecommunications services cover the long run incremental costs of such services in the aggregate.")(emphasis added).